

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**DESERT ORCHID PARTNERS, L.L.C.,**  
**individually and on behalf of all others**  
**similarly situated,**

**Plaintiff,**

**V.**

**TRANSACTION SYSTEMS ARCHITECTS,  
INC., WILLIAM E. FISHER, GREGORY J.  
DUMAN, DWIGHT G. HANSON, DAVID C.  
RUSSELL and EDARD FUXA,**

**Defendants.**

**NANCY ROSEN, individually and on behalf  
Of herself and all others similarly situated,**

**Plaintiff,**

**V.**

**TRANSACTION SYSTEMS ARCHITECTS,  
INC., WILLIAM E. FISHER, GREGORY J.  
DUMAN, DWIGHT G. HANSON, DAVID C.  
RUSSELL and EDWARD FUXA,**

## Defendants.

**8:02CV553**

## ORDER

**8:02CV561**

This matter comes before the court on the defendants' Unopposed Motion for Leave to File Answer (Filing No. 195 in case 8:02CV553; Filing No. 239 in case 8:02CV561). The defendants state they inadvertently failed to file an answer to the Second Amended Consolidated Class Action Complaint (Filing No. 98 in case 8:02CV553; Filing No. 140 in case 8:02CV561). The defendants filed a brief (Filing No. 197 in case 8:02CV553; Filing No. 241 in case 8:02CV561) and an index of evidence (Filing No. 196 in case 8:02CV553; Filing No. 240 in case 8:02CV561) in support of their motion.

The defendants answer was due on March 25, 2005. However, through inadvertence, the defendants failed to file an answer. The defendants state all parties have proceeded with discovery and the progression of the case. Additionally, there are no

substantive changes in the defendants' answer to the second amended complaint from the answer to the first amended complaint. The only changes are the title and a renumbering due to the plaintiffs' deletion of a paragraph. The defendants filed a proposed answer with their motion. **See** Exhibit A. The plaintiffs do not oppose the defendants' motion.

The defendants contend their failure to answer was a mere oversight, rather than an intentional act to delay proceedings. The defendants state counsel were traveling working on other matters related to this case when the answer should have been filed. Additionally, all parties have proceeded as if an answer had been filed. Further, the defendants have continued to defend this case vigorously. Pursuant to Federal Rule of Civil Procedure 6(b)(2), the court finds the defendants have shown failure to answer was excusable neglect and good cause justifies granting leave to file the answer out of time. Upon consideration,

**IT IS ORDERED:**

1. The defendants' Unopposed Motion for Leave to File Answer (Filing No. 195 in case 8:02CV553; Filing No. 239 in case 8:02CV561) granted.

2. The defendants shall have **until January 23, 2006**, to file an answer to the plaintiffs' Second Amended Consolidated Class Action Complaint.

DATED this 18th day of January, 2006.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge